

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SAMNANG SAVATH AND DANIEL LEE §

Plaintiffs §

VS. §

CIVIL ACTION NO. 4:22-cv-34

CLOUD KITCHENS, LLC AND 5828 §

FAIRDALE LANE HOU, LLC D/B/A FAIR §

FOOD COMPANY §

Defendants §

**DEFENDANT 5828 FAIRDALE LANE HOU, LLC D/B/A FAIR FOOD COMPANY’S
NOTICE OF REMOVAL**

TO THE HONORABLE COURT:

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant, 5828 FAIRDALE LANE HOU, LLC D/B/A FAIR FOOD COMPANY’S (“Defendant”), files this Notice of Removal to the United States District Court for the Southern District of Texas, Houston Division, on the basis of diversity of citizenship and amount in controversy and respectfully show:

**I.
FACTUAL BACKGROUND**

1.1 On or about December 6, 2021, Plaintiffs Samnang Savath and Daniel Lee (“Plaintiffs”) filed their Original Petition in the matter styled *Samnang Savath and Daniel Lee v. Cloud Kitchens, LLC and 5828 Fairdale Lane Hou, LLC d/b/a Fair Food Company*; Cause No 2021-79125; pending in the 270th Judicial District Court of Harris County, Texas, in which

Plaintiffs made a claim for damages arising out of personal injuries sustained when they were working on Defendant's premises.

1.2 On December 8, 2021, Plaintiffs served Defendant, 5828 Fairdale Lane Hou, LLC d/b/a Fair Food Company with process by serving their registered agents for service. In response, Defendant filed its Original Answer to Plaintiffs' Original Petition on January 4, 2022.

Defendant files this timely Notice of Removal within 30 days of receiving service of process and citation. *See* 28 U.S.C. §1446(b).

1.3 Pursuant to Local Rule 81, the following documents are being concurrently filed with this removal:

- **Exhibit A:** Index of Matters Being Filed;
- **Exhibit B:** The state court's Civil Docket Sheet
- **Exhibit C:** Plaintiffs' Original Petition;
- **Exhibit D:** Service of process served upon Defendant;
- **Exhibit E:** Defendant's Original Answer to Plaintiffs' Original Petition; and
- **Exhibit F:** List of Parties and Counsel

II. BASIS FOR REMOVAL

2.1 Defendant file this notice of removal within 30 days of being served with Plaintiffs' Original Petition. *See* U.S.C. § 1446(b). This Notice of Removal is being filed within one year of the commencement of this action. *See id.*

2.2 Removal is proper based upon diversity of citizenship under 28 U.S.C. § 1332. Under 28 U.S.C. § 1332, federal courts have original jurisdiction over controversies between

citizens of different states if the amount in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs.¹

A. THE PARTIES ARE OF DIVERSE CITIZENSHIP

2.3 Plaintiffs are, and were at the time the lawsuit was filed, individuals who reside in Houston, Harris County, Texas, and thus, are citizens of Texas. See Plaintiffs' Original Petition ¶ 2.

2.4 For organizations, citizenship lies in every state where it has been incorporated or has its principal place of business. Defendant 5828 Fairdale Lane Hou, LLC d/b/a Fair Food Company is, and was at the time the lawsuit was filed, a foreign for-profit company with its principal place of business in Los Angeles, California. 5828 Fairdale Lane Hou, LLC d/b/a Fair Food Company is a citizen of the State of California for diversity purposes.

2.5 Because Plaintiffs' domicile is Texas and Defendant's citizenship lies in California, the parties are completely diverse for purposes of diversity jurisdiction.

B. THE AMOUNT IN CONTROVERSY EXCEEDS THE JURISDICTIONAL REQUIREMENT FOR SUBJECT MATTER JURISDICTION

2.6 This is a civil action in which the amount in controversy exceeds \$75,000.00. Plaintiffs allege that Defendant is liable for negligence.

2.7 Plaintiffs are seeking monetary an unspecified amount of damages. See Plaintiffs' Original Petition ¶ IX.

**III.
THE REMOVAL IS PROCEDURALLY CORRECT**

3.1 Defendant was served with Plaintiffs' Original Petition and process on December

¹ 28 U.S.C. § 1332(a).

8, 2021. This notice of removal is filed within the 30-day time period required by 28 U.S.C. § 1446(b).

3.2 Venue is proper in this District and Division under 28 U.S.C. § 1446(a) because this District and Division include the county in which the state action has been pending and because a substantial part of the events giving rise to Plaintiffs' claims allegedly occurred in this District and Division.

3.3 Pursuant to 28 U.S.C. § 1446(a), all pleadings, process, orders, and all other filings in the state court action are attached to this Notice.

3.4 Pursuant to 28 U.S.C. § 1446(d), promptly after Defendant files this Notice, written notice of the filing will be given to Plaintiffs, the adverse party.

3.5 Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice of Removal will be filed with the Clerk of the Harris County District Court, promptly after Defendant files this Notice.

IV. CONCLUSION

4.1 Based upon the foregoing, the exhibits submitted in support of this Removal and other documents filed contemporaneously with this Notice of Removal and fully incorporated herein by reference, Defendant hereby removes this case to this Court for trial and determination.

Respectfully submitted,

THOMPSON, COE, COUSINS & IRONS, L.L.P.

By: /s/ David A. McFarland

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**ATTORNEYS FOR DEFENDANT 5828
FAIRDALE LANE HOU, LLC D/B/A
FAIR FOOD COMPANY**

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing instrument was delivered to all counsel of record in accordance with the Texas Rules of Civil Procedure on this the 5th day of January, 2022.

/s/ Kristie L. Walsdorf
David A. McFarland
Kristie L. Walsdorf